

CONTINUING EDUCATION

Summary of Recommended Position

The Contractors State License Board (CSLB) opposes requiring licensees to complete a continuing education requirement as a condition of license renewal.

Background

Many professions, particularly in the health field, have imposed a continuing education (CE) or continuing competency (CC) requirement on licensees. This requirement is generally for a set number of hours of education as a condition of license renewal. CE can be in the form of distance education, online education, attendance at seminars or conferences, or other types of classes.

In the past several years, discussion has focused on the value of CC over CE. CE is generally seen as a way to require licensees to stay current with standards and practices. CC, on the other hand, is a way to measure or verify whether a licensee is still able to competently perform his or her functions. It is broader than CE and may include self-assessment and subsequent reassessment or reexamination of licensees. The discussion of CC has focused on the health fields, primarily nursing and physical therapy. Some professions have turned to CC because they believe there are significant limitations to solely using CE as a way of determining ongoing competency.

The need for both CE and CC is expressed as both public protection and professional development. It is important to note that California licenses for a minimum level of competency; it is not the role of a licensing board to advance a profession. Most CE programs have virtually no way to assess whether the licensee has learned anything through the required CE.

Some proponents of CE believe that failing to regulate the continuing competence of licensees undermines the value of licensing, and the consumer protection that it provides.

Additionally, without a form of ongoing education, the licensing system relies too heavily on reactive discipline to ensure licensees are properly performing their duties.

Critics contend that there are other forums, such as private associations and certification, to differentiate more experienced and knowledgeable licensees from those who are less interested in remaining current on professional trends and practice. Also, any additional costs for a licensed profession translate into increased costs to consumers, possibly without a corresponding benefit. Finally, there are often no tools to measure whether or not CE is accomplishing its goal.

Issues to Consider Before Implementing CE

Any program considering, or being asked to consider, a CE requirement needs to first identify whether there is an existing problem, and, if so, whether or not mandatory CE would help solve that problem. Consideration also needs to be given to the fiscal 2

impact, to both the board and licensees, and whether any potential need justifies that cost. Specific questions to consider:

1. Is there a clear problem adversely affecting consumers?
2. If so, is CE the best way to address that problem, versus information dissemination of trends/standards, enforcement, or licensing?
3. If so, is there a clear connection between the problem and the solution as proposed by CE? (E.g., if it is disabled access, does the CE address that problem?)
4. If so, does the board have the necessary staff and budget to make the CE effective, or will it need additional resources?
5. If so, is there a clear measurement tool to demonstrate that the CE solves the problem?
6. If so, is the solution worth the costs to licensees, consumers, the board, and the public?

Existing Law on CE Programs

Business and Professions Code section 166 requires the Director of the Department Consumer Affairs (DCA) to develop guidelines by regulation for any mandatory CE programs administered by an entity within DCA. Regulations have never been adopted, but the statute provides that mandatory CE programs administered by any board must address, at a minimum, the following standards:

1. Course validity
2. Occupational relevancy
3. Effective presentation
4. Material assimilation
5. Potential for application

Legislative History

In 2011, Governor Brown vetoed a bill (SB 671) that would have imposed a CE requirement on court reporters. In his veto message, the Governor stated:

This bill would make license renewal for court reporters contingent on continuing education. The whole idea of legally mandated "continuing education" is suspect in my mind. Professionals already are motivated to hone their skills or risk not getting business.

Requiring them to pay fees to "continuing education providers" is an unwarranted burden.

In relation to AB 2189 (Karnette, 2008) for court reporters, Governor Schwarzenegger vetoed this bill, stating:

The proposed continuing education requirements in this bill impose an additional burden on the regulated profession without justifying a compelling need.³

DCA also opposed this bill, stating:

The need for the bill has not been adequately justified. DCA is not aware of any consumer harm that has resulted from unqualified CSRs (certified shorthand reporters). DCA further contends that continuing education requirements can have a significant financial impact on licensees, and that absent a compelling need, it seems unreasonable to place this additional burden on the regulated profession. Licensees already need to keep up to date on the latest technologies and laws in order to find employment in a very competitive marketplace.

From the Senate Business, Professions and Economic Development Committee analysis:

The arguments for the bill focus on informing CSRs about changes in laws and regulation, court procedures, and technological advances in the profession. However, the proponents should clearly document the harm that consumers encounter without a mandatory continuing education requirement for licensees.

A mandatory continuing education requirement would generate unspecified costs to licensees and generate corresponding revenues to continuing education providers, which typically are educational institutions and professional associations. The Board would also incur costs in establishing continuing education standards and tracking licensee compliance. In light of the low number of complaints by consumers and enforcement actions against licensees, what is the demonstrated need to mandate continuing education? The proponents should address the justification for, cost, and availability of such continuing education before going forward with a continuing education proposal.

It may be useful to draw a distinction between continuing education that is undertaken voluntarily by conscientious, motivated practitioners, versus continuing education that is undertaken involuntarily by unwilling or unmotivated practitioners. While continuing education seems intuitively to be highly beneficial to licensees and the consumer public, there is no empirical evidence that demonstrates a clear conjunction between a continuing education mandate and improved practitioner competence.

AB 2482 (Maze and Bass, Chapter 76, Statutes of 2008) required physician assistants to complete up to 50 hours of CE every renewal cycle.

SB 1608 (Corbett, Chapter 549, Statutes of 2008) enacted additional requirements to increase voluntary compliance with state and federal laws requiring access to persons with disabilities in any place of public accommodation. Additionally, it required architects to complete CE on disability access requirements as a condition of license renewal.

AB 120 (Cohn, Chapter 540, Statutes of 2006) established CE or CC for physical therapists and physical therapy assistants.

According to the sponsor of the bill, the California Physical Therapy Association:

The primary purpose of mandatory continuing education is to provide consumers some assurance that the physical therapy services they receive from physical therapists and physical therapist assistants are based on the most recent knowledge and understanding available, through new and ongoing education that ensures the best evidence-based practices are being utilized. The sponsors believe that

mandating continuing education will ultimately result in a high level of competence which will in turn translate into improved services for the citizens of California.

The Physical Therapy Board had requested authority to establish CE during its sunset review in 2001-2002 and 2005-2006. DCA opposed the request both times, as did the Joint Legislative Sunset Review Committee.

From the Senate Business, Professions and Economic Development Committee's analysis:

While government has struggled with the issue of what steps might be required to assure that licensed professionals maintain continued competency in their profession following initial licensure, generally where any action has been taken it has been to mandate continuing education. While on its face continuing education would seem to assure that practitioners are exposed to ongoing education related to their profession, the value of mandating continuing education has been questioned in the past.

Professional associations often push for continuing education, but these associations also are often providers of continuing education, and therefore financially benefit from a continuing education requirement. Other issues regarding the efficacy of mandating continuing education include the relevance of the courses, assurance of actual attendance, and whether a practitioner will actually participate and learn if compelled (rather than by voluntarily doing so by choice).

Current Requirements

Many of the professions within DCA do have a CE requirement. The majority of these are in the health professions, but some non-health boards do as well, such as the Board of Accountancy and the Architects Board, as well as the Structural Pest Control Board, which is part of the Department of Pesticide Regulation. The professions that do have CE all have an educational component as part of the initial licensing requirement.

Fiscal and Economic Impact

CE imposes a cost on both licensees and the licensing board. The last few boards that have implemented, or have attempted to implement, CE (Physical Therapy, Court Reporters Board, Physician Assistants Committee) have indicated that they could implement the requirement within their existing budget. However, all of these programs are significantly smaller than CSLB, which would not be able to implement such a requirement within existing resources.

Depending upon how the requirement is structured, there could be a significant workload impact. CSLB has approximately 300,000 licensees. If all licensees were required to complete CE every two years as part of their renewal, there likely would be a requirement for staff to audit a certain percentage or a random sample of renewals to verify the requirement is being met. Given the size of CSLB's licensing population, this would require significant additional resources.

Such a requirement would impose a significant financial burden on licensees, as well. They would need to pay to attend the required courses, distance education, or other format, and would need to take time away from work to complete the requirement.

Conclusion

While many licensed professions in California have a CE or CC requirement, there is little information available about the effectiveness of such requirements. As noted in the Senate Business, Professions and Economic Development Committee analysis of AB 2189, “there is no empirical evidence that demonstrates a clear conjunction between a continuing education mandate and improved practitioner competence.” Without an identified problem with the construction industry that CE would address, and due to the significant cost impact of such a requirement on licensees and the Board, CSLB cannot support a CE requirement.

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